

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JAY L. JIM,

Plaintiff,

v.

AITOR NARVAIZA, *et al.*,

Defendants.

Case No. 3:19-cv-00179-MMD-CLB

ORDER

Plaintiff previously filed an application to proceed *in forma pauperis* and submitted an amended civil rights complaint under 42 U.S.C. § 1983. (ECF Nos. 6, 14.) The Court has not yet screened the complaint. Plaintiff now files a motion for voluntary dismissal. (ECF No. 15.)

Plaintiff has a second case pending with the Court under Case No. 3:19-cv-00011-MMD-CLB. Both cases involve allegations against Aitor Narvaiza and the conditions at the Elko County Detention Center. Plaintiff argues that both cases are tied together and that justice will be best served by allowing Plaintiff to dismiss this action and file an amended complaint in Case No. 3:19-cv-00011-MMD-CLB. The Court agrees. Under Federal Rule of Civil Procedure 41(a)(1), a plaintiff may dismiss an action without a court order by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i). No responsive pleading has been filed in this case. As such, the Court dismisses this action without prejudice.

Plaintiff is granted leave to file an amended complaint in Case No. 3:19-cv-00011-MMD-CLB within 30 days from the date of entry of this order. If Plaintiff chooses to file an amended complaint he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. *See Hal*

1 *Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989)
2 (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an
3 amended pleading supersedes the original”); see also *Lacey v. Maricopa County*, 693
4 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff
5 is not required to reallege such claims in a subsequent amended complaint to preserve
6 them for appeal).

7 Plaintiff’s amended complaint must contain all claims, defendants, and factual
8 allegations that Plaintiff wishes to pursue in Case No. 3:19-cv-00011-MMD-CLB.
9 Moreover, Plaintiff should file the amended complaint in Case No. 3:19-cv-00011-MMD-
10 CLB on this Court’s approved prisoner civil rights form and it must be entitled “First
11 Amended Complaint.”

12 For the foregoing reasons, it is ordered that the motion for voluntary dismissal (ECF
13 No. 15) is granted.

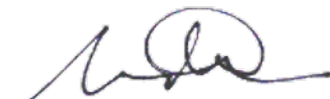
14 It is further ordered that Plaintiff is given leave to file an amended complaint in Case
15 No. 3:19-cv-00011-MMD-CLB within 30 days of entry of this order.

16 It is further ordered that the Clerk of the Court will send to Plaintiff the approved
17 form for filing a § 1983 complaint, instructions for the same, and a copy of his amended
18 complaint in this action (ECF No. 14), as well as a copy of his complaint in Case No. 3:19-
19 cv-00011-MMD-CLB (ECF No. 10). If Plaintiff chooses to file an amended complaint in
20 Case No. 3:19-cv-00011-MMD-CLB, he should use the approved form and he will write
21 the words “First Amended” above the words “Civil Rights Complaint” in the caption.

22 It is further ordered that this action is dismissed in its entirety without prejudice.

23 It is further ordered that the Clerk of the Court will enter judgment accordingly and
24 close this case.

25 DATED THIS 21st day of April 2020.

26
27 

28 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE